



## CENTERS FOR INDEPENDENT LIVING

### COMPLIANCE REVIEW REPORT

Tri-State Resource and Advocacy Corporation

GRANT # H132A930114

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**REHABILITATION SERVICES ADMINISTRATION**

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## **I. PURPOSE OF THE ON-SITE MONITORING REVIEW**

Sections 706(c) and 722 of the *Rehabilitation Act of 1973, as amended* (the act) mandate that the Rehabilitation Services Administration (RSA) conduct on-site reviews of centers for independent living (CILs) funded under Title VII, Part C, Section 722. The objectives of on-site reviews are to:

- assess compliance with the requirements of Section 725(b) and (c)(3) of the act and 34 CFR 366.60-366.63;
- study program operations, organizational structure and administration of the CIL under Section 725(c)(1), (2), (5) and (6) of the act and 34 CFR 366.2 and 366.50;
- review documentation sufficient to verify the accuracy of the information submitted in the most recent 704 Annual Performance Report;
- verify that the CIL is managed in accordance with federal requirements in the Education Department General Administrative Regulations (EDGAR);
- assess CIL conformance with its work plan, developed in accordance with Section 725(c)(4) of the act and 34 CFR 366.50(d)(2), conditions of the CIL's approved application, and consistency with the State Plan for Independent Living (SPIL);
- identify areas of suggested or necessary improvements in the CIL's programmatic and fiscal operation and provide technical assistance resources available on the local, state, regional and national level;
- identify areas of exemplary work, projects and coordination efforts and make this information available to the larger CIL community; and
- provide an opportunity to share information with experienced nonfederal individuals involved in the operations of CILs and make available technical assistance to enhance CIL operations or to minimize or to eliminate problem areas.

## **II. METHODOLOGY**

The on-site monitoring review was conducted September 12-15, 2011. The program review covered the independent living (IL) operations and activities of Tri-State Resource and Advocacy Corporation (TRAC) and the financial review examined the center's participation in Title VII, Part C, of the act. RSA used the On-Site Review Guide (ORG) to conduct the on-site review. During the review, interviews were conducted with the center's management, staff, and members of the board of directors.

In addition to the interviews and meetings, program and financial documents were reviewed in accordance with the protocol required by RSA's ORG, including written policies and procedures, a sample of consumer service records (CSRs), and other documents that verified compliance with standards and indicators. CSRs were selected for review on a random basis. The team conducted an exit conference at the conclusion of the onsite meetings to provide feedback on initial impressions from the review.

The RSA review team included the following individuals:

- Timothy Beatty, RSA Chief of Independent Living Unit;
- Todd Miller, RSA Grants Management Specialist; and
- Wendy Gagliardo, non-federal reviewer.

In addition, the Designated State Unit and the State Independent Living Council were invited to send representatives to participate in the review. The representatives were:

- Samuel E. Cole, Program Manager, Tennessee Division of Rehabilitation Services; and
- Mark Montgomery, Executive Director, Tennessee Statewide Independent Living Council.

### **III. MISSION AND DESCRIPTION**

The mission of TRAC is to provide and enhance opportunities for individuals with disabilities to lead full and independent lives. Independent Living means that individuals with disabilities are seeing the same choices and control throughout his/her everyday life that people without disabilities have.

TRAC was initially funded in 1987 to serve Northeast Alabama, Northwest Georgia and ten counties in Tennessee, including Bledsoe, Bradley, Grundy, Hamilton, Marion, McMinn, Meigs, Polk, Rhea, and Sequatchie. TRAC has its single office in Chattanooga, TN.

### **IV. ORGANIZATIONAL STRENGTHS**

The staff of TRAC is to be recognized for its commitment to providing services to individuals with disabilities. All of the staff have been with the center for seven years or more. With only five staff providing services in the service area, the focus has stayed on the mission. Also, the consumers and stakeholders interviewed during the review considered TRAC to be effective advocates in the community.

### **V. OBSERVATIONS AND RECOMMENDATIONS**

During its review activities, RSA identified the observations below and made recommendations that TRAC may consider to improve its overall operations and IL service delivery to consumers with significant disabilities.

#### **1. Consumer Service Record (CSR) Narratives**

**Observation:** The review team observed that TRAC's CSR narratives only minimally reflected the extent to which the center's IL specialists facilitated the development and achievement of consumers' IL goals. Though the CSRs typically contained intake forms, correspondence, documentation from other agencies and other information, it was difficult to determine from the CSR narratives what the center staff were doing to facilitate the consumers' goals and whether the goals had been completed.

**Recommendation:** RSA recommends that TRAC review and revise its service procedures and staff training to encourage the center's IL specialists to better document the contributions they

make to the development and achievement of their consumers' independent living and community integration goals.

**TRAC Response:** TRAC staff keep a written "contact note" in the consumer files on every conversation they have with the consumer and/or on behalf of the consumer. When the consumer's IL goals have been met, it is documented on the intake page in the section marked goals met and what date. We are abolishing the data department so that each staff can supervise and monitor their own data and enter it into a centralized system. This will allow for more updating and monitoring of the consumers status.

## **2. Board Training Plan**

**Observation:** TRAC does not have a training policy and/or plan for board members. The review team observed during meetings with the board members that they were not familiar with key components of their programmatic, legal, and fiscal oversight responsibilities such as review and approval of the center's budget and expenditures. Similarly, in interviews with board members, many were unable to describe the four core services mandated by the act.

All of the TRAC's board members are new as they were appointed the week prior to the review and they expressed a strong interest in participating in training that will facilitate their understanding of CIL board roles including the election of a chair and other officers and the responsibilities for both officers and members. In the exit meeting, the review team recommended that TRAC identify a resource that offers training about board and nonprofit management.

**Recommendation:** RSA recommends that TRAC:

- 2.1 develop a training policy and plan for all board members and CIL employees;
- 2.2 implement a plan for continuous board training regarding the grants management and financial requirements in EDGAR, OMB Circulars such as A-122, and Title VII of the Act, including the Standards and Assurances in Section 725; and
- 2.3 participate in board training on the IL philosophy, such as what every new board member and executive director should know that includes background information on the history of the IL movement and program.

**Technical Assistance:** Courses available through the Independent Living Research Utilization (ILRU) and the Association of Providers of Rural Independent Living (APRIL) as well as participation in other workshops and conferences may be utilized to fulfill requirements established in the center's forthcoming training policy and plan. Additionally, there may be free local resources available to nonprofits to enhance operational (bylaws) and fiscal management.

**TRAC Response:** TRAC's new board members are receiving on-going training as well as developing a cross-segment for training in the particular components expected of different positions such as fiscal oversight required of the board treasurer. To demonstrate true consumer control all of our current board members consist of former and current consumers only.

## **3. Drug-free Workplace Training**

**Observation:** TRAC complies with the drug-free workplace requirements. However, the CIL does not have ongoing drug-free workplace awareness trainings.

**Recommendation:** The review team recommends that TRAC develop, implement, and document an annual staff training regarding drug-free awareness. Training should provide information regarding penalties, consequences of drug use in the workplace, and available rehabilitation programs.

**TRAC Response:** TRAC is developing a training group to administer annual drug-free awareness and drug free workplace.

## **VI. FINDINGS AND CORRECTIVE ACTIONS**

RSA identified the compliance findings below. Within 30 days of receipt of the final report, TRAC must submit a corrective action plan (CAP) to RSA for review and approval. The CAP should include: (1) the specific corrective actions that the center will undertake in response to each finding; (2) the methodology that the center will utilize to evaluate if each corrective action has been effective; and (3) the timetable for the implementation and evaluation of the corrective action. RSA reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, pursuant to 34 CFR 74.60 and 34 CFR 74.62 of the Education Department General Administrative Regulations (EDGAR).

### **Finding 1: Three-Year Program and Financial Planning Objectives**

#### **Legal Requirement:**

34 CFR 366.50(d)(1). The applicant will establish clear priorities through annual and three-year program and financial planning objectives for the center.

**Facts and Analysis:** TRAC included annual planning objectives in the 704 report. However, it has not established three-year program and financial planning objectives.

**Finding:** TRAC is not meeting the requirements of 34 CFR 366.50(d)(1) because it has not established clear priorities through three-year program and financial planning objectives for the center, including its overall goals or a mission.

**Corrective Action:** TRAC must take corrective action to establish clear priorities through three-year program and financial planning objectives for the center. The three-year plan must address the center's goals and mission and also incorporate the center's corrective action plan in response to this report. The three-year plan must form the basis for the center's work plan in accordance with 34 CFR 366.50(d)(2). Three-year plans and the corresponding work plans must reflect the center's mission and priorities in accordance with their original application. Finally, the board of directors as the principal governing body of the center must be actively involved in the development, reviews and approval of the planning objectives and work plans.

**TRAC Response:** TRAC does have an annual and five year plan on file. Our five year plan was developed and created by the previous Board of Directors. They approved and implemented this plan less than five years ago. The current Board of Directors are prepared to develop

approve and implement the next strategic plan as a three year plan. We are currently under the direction of the five year plan.

**RSA Determination: RSA maintains Finding #1 based on the facts presented in the report since the review team was not provided with copies of the annual and 5 year plans at the time of the review. The Board of Directors has the legal and fiduciary responsibility including programmatic and fiscal oversight for TRAC and the Part C grants. With that responsibility, comes the requirement to prevent and correct, in conjunction with the Executive Director, situations related to RSA's findings. The corrective action plan for this finding must include steps and timelines to ensure completion of the three year programmatic and financial plans within six months of the final report's issuance and specify the technical assistance which may be needed. RSA will consider the corrective action to be completed upon its review and approval of TRAC's three-year programmatic and financial plan.**

## **Finding 2: Financial Management Systems**

### **Legal Requirement:**

34 CFR 364.34: In addition to complying with applicable EDGAR fiscal and accounting requirements, the State plan must include satisfactory assurances that all recipients of financial assistance under parts B and C of chapter 1 of title VII of the Act will adopt those fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for those funds.

34 CFR 366.50(g): To be eligible for assistance under this part, an eligible agency shall provide satisfactory assurances that the applicant will practice sound fiscal management.

EDGAR 34 CFR 75.702. A grantee shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting of Federal funds.

EDGAR 74.21(b). Recipients' financial management systems shall provide for the following: (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to awards, authorizations, obligations, unobligated balances, assets, outlays, income, and interest. (3) Effective control over and accountability for all funds, property, and other assets. Recipients shall adequately safeguard all assets and assure they are used solely for authorized purposes. (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data. (5) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR Part 205--Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs. (6) Written procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the provisions of the

applicable Federal cost principles and the terms and conditions of the award. (7) Accounting records including cost accounting records that are supported by source documentation.

EDGAR 74.22(b)(1). Recipients are paid in advance, provided they maintain or demonstrate the willingness to maintain—(i) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient; and (ii) Financial management systems that meet the standards for fund control and accountability as established in §74.21. (2) Cash advances to a recipient organization are limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project.

OMB Circular A-122, Cost Principles for Non-Profit Organizations, Attachment A, Section A.4.a and b. A cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Federal award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it: (1) Is incurred specifically for the award. (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or (3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown. b. Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

**Facts and Analysis:** TRAC does not practice sound fiscal management in accordance with its required assurance under 34 CFR 366.50(g) and does not have a financial control and oversight to ensure proper disbursement of and accounting of federal funds as required by 34 CFR 74.21(b)(2), 34 CFR 75.702 and 34 CFR 364.34.

TRAC does not have effective control over and cannot show accountability for all funds, property and other assets so that the center can assure RSA that its assets are being used solely for authorized purposes in accordance with 34 CFR 74.21(b)(3). TRAC does not have any individual or group of individuals exercising the responsibility of oversight over all funds, property and other assets. The chief financial coordinator enters information provided by the executive director without verifying the accuracy of the information.

The board of directors exercises no review, oversight and approval authority with regard to the center's annual budgets or financial reports. The board minutes, for example, do not indicate the board formally approved the center's budget. This is further complicated by the executive director also serving as the board chair which poses conflict of interest issues.

As a specific example of an unallowable cost, the review found that receipts for FYs 2009 and 2010 indicated a total balance of \$1,080 paid over those two years for associated fees for membership in the private Walden Club for the executive director.

TRAC lacks written procedures ensuring the reasonableness, allocability, and allowability of cost to cost principles or terms of the award, in accordance with 34 CFR 74.21(b)(6) and OMB Circular A-122, Attachment A, Section A.4.a and b. As a result, funds are spent without proper determination of the allowability or allocability of approved expenditures.



**Finding:** TRAC is not in compliance with:

- 3.1 34 CFR 364.34, 34 CFR 366.50(g), and EDGAR 75.702 because it does not use fiscal control and fund accounting procedures that insure proper disbursement of and accounting of federal funds.
- 3.2 EDGAR 74.21(b)(2) because its records do not identify the source and application of funds for federally-sponsored activities or effectively account for all funds.
- 3.3 EDGAR 74.21(b)(3) because it does not have any individual or group of individuals exercising the responsibility for the oversight over all funds, property, and other assets.
- 2.4 34 CFR 74.21(b)(4) because the board of directors have been approving the minutes and the reports with little or no comment.
- 2.5 EDGAR 74.21(b)(4) because it does not compare outlays with budget amounts for each award.
- 2.6 EDGAR 74.21(b)(5) and EDGAR 74.22(b) because it does not minimize the time elapsing between the transfer of funds to the recipient and their disbursement of funds for program purposes.
- 2.7 EDGAR 74.21(b)(6) and OMB Circular A-122, Attachment A, Section A.4.a and b because it does not have procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the provisions of the applicable federal cost principles and the terms and conditions of the award.
- 2.8 OMB Circular A-122, Attachment B, item 30 *Memberships, subscriptions, and professional activity costs*. (d) Costs of membership in any country club or social or dining club or organization are unallowable because the center pays the fees for the executive director to be a member of a private club.
- 2.9 EDGAR 74.21(b)(7) because its accounting records are not supported by source documentation, particularly in regard to travel and capital expenditure costs.

**Corrective Action:** TRAC must take corrective action to ensure that it:

- 2.1 develops fiscal control and fund accounting procedures that ensure proper disbursement of and accounting of federal funds. As part of its corrective action, the center must arrange for a financial consultant to conduct a financial review of the center and assist in the development and implementation of the required policies and procedures within six months of the issuance of the final report;
- 2.2 develops and be able to present records that accurately display separately, by award and funding source, information that pertains to authorizations, obligations, unobligated balances, assets, outlays, and income;

- 2.3 develops and implements policies and procedures that will provide control over, and accountability of all funds, property, and assets to ensure that they are used solely for authorized purposes;
- 2.4 develops and implements policies and procedures to effectively control outlays with budget amounts for each award, including a closer oversight by executive staff and board members to monitor and act upon issues of budget levels versus actual expenditures;
- 2.5 follows correct drawdown procedures to ensure that funds drawn down are done so to match the expenditures within the respective grants, and are tied directly to the benefiting grant;
- 2.6 develops and implements written procedures to be utilized by executive and board members that will determine the reasonableness, allowability, and allocability of costs in accordance with applicable federal cost principles and terms and conditions of the grant;
- 2.7 develops and implements procedures to ensure that the center's expenditures are supported by source documentation.

**TRAC Response:** As a result of the financial findings throughout this report, we are in the process of screening, recruiting, qualifying, and hiring an actual Chief Financial Officer. We believe this position will allow for prudent financial management and excellent oversight. You will notice from all previous board minutes that the Board of Directors were given a financial report at every board meeting of which after discussion voted to approve the financial report. This information is a correction to the statement made in the third paragraph under Facts and Analysis in this section. Furthermore we do not know the exact amount of Part C funding we will be receiving annually until we are notified sometime between May and August of each year. With there not being a consistency in the time of year we are notified it makes it quite difficult for CIL's to schedule their board meetings to fall at a precise time. We believe earlier notification or a longer window of time to prepare the budget summaries would resolve this.

2.1 Recruit and hire a qualified Chief Financial Officer to implement Board of Directors directives with the assistance of the Board Treasurer where necessary for oversight.

2.2 Recruit and hire a qualified Chief Financial Officer to implement Board of Directors directives with the assistance of the Board Treasurer where necessary for oversight.

2.3 Recruit and hire a qualified Chief Financial Officer to implement Board of Directors directives with the assistance of the Board Treasurer where necessary for oversight.

2.4 The Board of Directors already approve every financial report provided to them at each board meeting as demonstrated in the minutes. Effective management by a qualified Chief Financial Officer will alleviate over budgeted expenditures.

2.5 Effective management by a qualified Chief Financial Officer will resolve these issues.

2.6 A Board Treasurer working with the Board to develop written procedures for the Chief Financial Officer to follow with oversight from the Board when necessary.

2.7. A Board Treasurer working with the Board to develop written procedures for the Chief Financial Officer to follow with oversight from the Board when necessary.

2.8. Membership was on behalf of the Organization and the Executive Director was just the designee. The membership was instrumental in developing resources for TRAC. Due to the clarification the membership has been canceled.

2.9 The Board of Directors will develop a more comprehensive travel policy than our current one entails.

**RSA Determination: RSA maintains Finding 2 based on the facts presented in the report. RSA made its finding based on facts revealed during the September 2011 on-site review which showed TRAC has inadequate financial policies and procedures including financial reporting to the Board of Directors. RSA acknowledges the centers willingness to take corrective actions to resolve Finding 2 with the hiring of a qualified Chief Financial Officer and other steps. However, the Board of Directors has the legal and fiduciary responsibility including programmatic and fiscal oversight for TRAC and the Part C grants. With that responsibility, comes the requirement to prevent and correct, in conjunction with the Executive Director, situations related to RSA's findings. The corrective action plan must provide the steps and timelines to ensure completion within six months of the final report's issuance and indicate the specific RSA technical assistance requested. RSA will consider the corrective action for Finding 2 to be completed upon its review and approval of TRAC's revised fiscal control and fund accounting policies and procedures including related forms, financial reports and assigned responsibilities to the appropriate staff and board members and verification that the new policies and procedures are being implemented in a manner that complies with federal requirements. RSA will arrange to provide technical assistance in the development and implementation of the proposed plan through ILRU as appropriate, including a financial consultant.**

### **Finding 3: Program Income**

#### **Legal Requirement:**

34 CFR 364.5. Program income means gross income received by a grantee under title VII of the Act that is directly generated by an activity supported under 34 CFR part 365, 366, or 367.

(a) Sources of program income include, but are not limited to, payments received from workers' compensation funds or fees from services to defray part or all of the costs of services provided to particular consumers. (b) Program income, whenever earned, must be used for the provision of IL services or the administration of the State plan, as appropriate. (2) A service provider is authorized to treat program income as – (i) a deduction from total allowable costs charged to a Federal grant, in accordance with 34 CFR 80.25(g)(1); or (ii) An addition to the grant funds to be used for additional allowable program expenditures, in accordance with 34 CFR 80.25(g)(2). (3) Program income may not be used to meet the non-Federal share requirement under 34 CFR 365.12(b).

34 CFR 74.21(b). Recipients' financial management systems shall provide for the following: (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to awards, authorizations, obligations, unobligated balances, assets, outlays, income, and interest.

34 CFR 74.22(g) To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on these funds before requesting additional cash payments.

**Finding:** TRAC does not adequately track program income and ensure it is used only for allowable program purposes in accordance with 34 CFR 364.5 and 34 CFR 74.21(b). TRAC operates a ramp project, funded with IL Part C grant funds, that supports the construction of accessible ramps for consumers. TRAC has a full-time coordinator for this program and the program's administrative activities (e.g., contracting, payment of invoices, etc.) are part of the duties performed by other IL Part C funded staff, including 20 hours per week spent on this program by the chief financial coordinator.

The ramp program coordinator solicits and receives funds from organizations such as United Cerebral Palsy and the Southeast Tennessee Human Resource Agency (SETHRA), donations of materials from lumber companies and warehouse stores, and in-kind services from contractors (total of 3,898 hours of labor donated). In some instances, contractors are paid for the costs of the ramp building projects. The ramp program completes 100 ramps on average annually. Because these funds are generated by an activity supported by the IL Part C program, the funds are considered program income. TRAC allocates only a small percentage of two staff members' time to these funds, when in actuality one member spends the majority of their time providing this service. Ramp expenses such as travel, telephone, copy supplies, and office rent are charged to the IL Part C funds instead of ramp program income. As a result, there is an excess of funds that is counted as profit rather than being used for IL activities. RSA was unable to determine exactly what the excess funds were used for (see Finding #2 above regarding financial control and oversight and accountability of funds). In accordance with federal requirements, TRAC must ensure that program income funds are used only for IL Part C program purposes and are disbursed before requesting additional cash drawdowns. The center does not have written policies or practices that describe how program income is tracked and expended to ensure compliance with the federal requirements.

**Corrective Action:** TRAC must:

3.1 develop and implement policies and procedures, including the appropriate methods of documentation, to:

- a) properly track the source and application of program income;
- b) ensure that program income is expended only on allowable and allocable IL Part C costs; and
- c) ensure that program income funds are disbursed before additional cash drawdowns are requested.

**TRAC Response:** These deficiencies can be corrected by the hiring of an experienced Chief Financial Officer. TRAC's Executive Director has questioned why two personnel are being dedicated to the ramp program when it should require only one. It should not be a full-time position; therefore we have successfully reduced staff involvement and use of Part C funding as well as consolidate resources. This allows for more Part C funds going to staff directly involved in IL service delivery.

3.1 Recruit and hire a qualified Chief Financial Officer to implement Board of Directors directives with the assistance of the Board Treasurer where necessary for oversight.

**RSA Determination:** RSA maintains Finding 3 based on the facts presented in the report. RSA duly notes the information provided about the possible causes. The finding, however, is based on a lack of sufficient and verifiable policies, procedures and documentation to track program income. RSA acknowledges the center's willingness to take corrective actions to resolve Finding 3 however the hiring of a Chief Financial Officer alone is not sufficient. The Board of Directors and the Executive Director have legal and fiduciary responsibility for TRAC as a nonprofit and for the Part C grants. With that responsibility, comes the requirement to provide oversight and direction to the Executive Director and staff as well as the monitoring and compliance of policies and procedures. The corrective action plan must include steps and timelines to ensure completion within six months of the final report issuance and specify the technical assistance requested. RSA will consider the corrective action to be completed upon its review and approval of the necessary policies and procedures related to program income, including related forms, and its verification that such policies and procedures are being implemented consistent with federal requirements. RSA will arrange to provide technical assistance in the development and implementation of the proposed plan through ILRU as appropriate, including a financial consultant.

#### **Finding 4: Cost Allocation Plan/Indirect Cost Rate**

##### **Legal Requirement:**

EDGAR 34 CFR 75.560 (a) The differences between direct and indirect costs and the principles for determining the general indirect cost rate that a grantee may use for grants under most programs are specified in the cost principles for . . . (3) Other nonprofit organizations, at 34 CFR 74.27; (b) A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. To obtain an indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency and negotiate an indirect cost rate agreement.

EDGAR 34 CFR 74.27(a). For each kind of recipient, there is a set of cost principles for determining allowable costs. Allowability of costs are determined in accordance with the cost principles applicable to the entity incurring the costs, as specified in the following chart: Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Non-Profit Organizations," establishes the principles for determining costs of grants, contracts and other agreements with the federal government.

**Facts and Analysis:** EDGAR 34 CFR 75.560(b), 34 CFR 74.27 and OMB Circular A-122 require centers for independent living to establish a cost allocation plan or indirect cost rate approved by the U.S. Department of Education to ensure that centers distribute administrative costs among their various funding sources in a manner that provides a clear understanding of agency financial operations. TRAC does not have a cost allocation plan or indirect cost rates approved by the Department of Education.

**Finding:** TRAC is not in compliance with EDGAR 34 CFR 75.560(b), 34 CFR 74.27 and OMB Circular A-122 because it is allocating costs to its IL Part C grant without an approved cost allocation plan or indirect cost rate agreement.

**Corrective Action:** TRAC must take corrective action to:

4.1 develop, receive approval of, and implement a cost allocation plan or indirect cost rate. As part of the corrective action, TRAC must submit a cost allocation plan or indirect cost rate proposal to the U.S. Department of Education's Indirect Cost Group, at [mary.gougisha@ed.gov](mailto:mary.gougisha@ed.gov), within three months of the issuance of the final report.

**Technical Assistance:** RSA will provide a model cost allocation plan upon request.

**TRAC Response:** TRAC is anticipating the new Chief Financial Officer will review your findings and develop a Cost Allocation Plan/Indirect Cost Rate satisfactory to RSA

**RSA Determination:** RSA maintains Finding 4 based on the facts presented in the report. TRAC's Board of Directors must submit a cost allocation plan or indirect cost rate proposal to the U.S. Department of Education's Indirect Cost Group, at [mary.gougisha@ed.gov](mailto:mary.gougisha@ed.gov), within three months of the issuance of the final report. RSA will consider the corrective action to be completed upon confirmation that the proposal has been received by the Indirect Cost Group. The corrective action plan must include steps and timelines to ensure completion of the cost allocation plan submission within the 90 day timeframe.

## **Finding 5: Property Management and Procurement Standards**

**Legal Requirement:** EDGAR 74.34(f). The recipient's property management standards for equipment acquired with Federal funds and federally-owned equipment shall include all of the following: (1) Equipment records shall be maintained accurately and shall include the following information: (i) A description of the equipment. (ii) Manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

(iii) Source of the equipment, including the award number. (iv) Whether title vests in the recipient or the Federal Government. (v) Acquisition date (or date received, if the equipment was furnished by the Federal Government) and cost. (vi) Information from which one can calculate the percentage of Federal participation in the cost of the equipment furnished by the Federal Government). (vii) Location and condition of the equipment and the date the information was reported. (viii) Unit acquisition cost. (ix) Ultimate disposition data, including date of disposal and sales price or method used to determine current fair market value where a recipient compensates ED for its share. (2) Equipment owned by the Federal government must be

identified to indicate Federal ownership. A physical inventory of equipment must be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records must be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment. (4) A control system must be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented; if the equipment was owned by the Federal Government, the recipient shall promptly notify the Secretary. (5) Adequate maintenance procedures must be implemented to keep the equipment in good condition. (6) Where the recipient is authorized or required to sell the equipment, proper sales procedures must be established which provide for competition to the extent practicable and result in the highest possible return.

EDGAR 74.44(a). All recipients shall establish written procurement procedures that comply with sections 74.40 – 74.48.

EDGAR 74.40. Sections 74.41 through 74.48 contain standards for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property, and other services with Federal funds. These standards are designed to ensure that these materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal statutes and executive orders.

**Facts and Analysis:** TRAC's property management standards do not meet EDGAR requirements. The center does not have policies or procedures related to property and equipment inventory control, maintenance, insurance coverage, disposal, and investigation, or reporting of theft or damage. Also, TRAC does not maintain adequate records of property purchased with grant funds.

In addition, TRAC does not have procurement standards that meet the requirements of 34 CFR 74.40 through 74.48. TRAC does not have a written purchasing policy that gives adequate consideration to costs, quality, delivery, competitive bidding, inspection, and acceptance. Furthermore, the center's written financial policies do not provide for the separation of duties in the purchasing and payment functions, nor require more than one signature for any checks.

**Finding:** TRAC is not in compliance with:

5.1 EDGAR 74.34(f) because its property management standards do not include all of the components required by the federal regulation.

5.2 EDGAR 74.40 and 74.44(a) because it does not have written procurement procedures that meet the requirements of sections 74.41 – 74.48.

**Corrective Action:**

TRAC must take corrective action to ensure that they develop and implement:

5.1 a property management system that meets the requirements of EDGAR 74.34(f); and

5.2 written procurement procedures that meet the requirements of EDGAR 74.40 – 74.48.

**TRAC Response:** The hiring of Chief Financial Officer should allow for compliance.

5.1 The Board of Directors will oversee the compliance and implementation.

5.2 The Board of Directors will review the financial policies and procedures and modify where necessary.

**RSA Determination:** RSA maintains Finding 5 based on the facts presented in the report. Simply hiring a Chief Financial Officer is not sufficient and changes to the procurement procedures must be made. As stated previously, the Board of Directors has legal and fiduciary responsibility for TRAC and the Part C grants including the safeguarding of equipment. The Board of Directors, in conjunction with the Executive Director is responsible for the correction of situations related to RSA's findings. The corrective action plan must provide the steps and timelines to ensure completion within six months of the final report's issuance and specify any RSA technical assistance requested. RSA will consider the corrective action to be completed upon its review and approval of the required written procurement and property management policies and procedures and its verification that such policies and procedures are being implemented in a manner that complies with federal requirements. This includes an updated equipment inventory reviewed and approved by the Board of Directors.

## **Finding 6: Staff Development and Training**

### **Legal Requirement:**

34 CFR 364.24 Staff Development. The State plan must assure that the service provider establishes and maintains a program of staff development for all classes of positions involved in providing IL services and, if appropriate, in administering the CIL program. The staff development program must emphasize improving the skills of staff directly responsible for the provision of IL services, including knowledge of and practice in the IL philosophy.

**Facts and Analysis:** Interviews with the board members and managerial staff indicated that currently, staff may participate in training that directly relates to their work focus area, depending on their work load and availability of funds. Some informal training is provided by the executive director in staff meetings. In staff interviews, it was reported that some staff have received training. However, staff could not recall specific trainings in which they had participated. Staff reported that they were often confused by the process needed to obtain approval for training.

**Finding:** TRAC does not meet the requirements of 34 CFR 364.24 because it does not have a staff development program for staff directly responsible for the provision of IL services.

**Corrective Action:** TRAC must take corrective action to develop and implement a program of staff development for all classes of positions involved in providing IL services and, if appropriate, in administering the CIL program. The staff development program must emphasize



improving the skills of staff directly responsible for the provision of IL services, including knowledge of and practice in the IL philosophy.

**TRAC Response:** The Staff are now required to sign statements accepting or declining further training. Some positions are obsolete and had the staff participated in the training offered they would have been able to evolve into other stronger IL positions. All new hires are enrolled in IL Training during their probationary period.

**RSA Determination:** RSA maintains Finding 6 based on the facts presented in the report. Based on TRAC's responses to Finding 6 requested additional information from the Executive Director regarding the duty statements of three of the staff. It was determined that the Executive Director's duty statement had not been reviewed in advance by the Board. The Administrative Assistant's duty statement conflicted with the one provided at the time of the review and the job title was different from what was on the TRAC organizational chart and the website. Once again, the Board of Directors has the legal and fiduciary responsibility for TRAC and the Part C grants. With that responsibility, comes the requirement to provide oversight and direction to the Executive Director regarding staff development including the development and approval of position descriptions and duty statements, organizational charts as well as the policies and procedures regarding staff development and a training plan for the staff. The corrective action plan must provide the steps and timelines to ensure completion within six months of the final report's issuance and specify any RSA technical assistance requested. RSA will consider the corrective action to be completed upon its review and approval of the Board approved position descriptions, duty statements and organizational chart as well as the required written staff development policies and procedures, staff training plan and verification those policies and procedures are being implemented in a manner that complies with federal requirements.

### **Finding 7: Board of Directors Oversight**

#### **Legal Requirement:**

Section 725(b)(2) of the Act: The center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a board that is the principal governing body of the center and a majority of which shall be composed of individuals with significant disabilities.

#### **Facts and Analysis:**

TRAC's board of directors is comprised entirely of individuals with disabilities. Also, its bylaws designate the board as the center's principal governing body. However, the review team found several examples that demonstrate that the board is not providing responsible programmatic and fiscal oversight of the center. For example:

- The chair of the board of directors is the executive director. There are no other officers on the board.
- The board does not provide supervision, direction and approvals to the executive director.

- The board does not require the executive director to submit a time and attendance record for their review and approval.
- The board minutes do not indicate that the board periodically evaluates the executive director's job performance or the center's performance with respect to the work plans, standards and assurances or customer satisfaction surveys.
- There is no approved annual budget or annual and three-year program and financial planning objectives for the center.
- The board has not reviewed expenditures such as the membership fees paid over the past two years for the private Walden Club for the executive director.
- There is no process for staff or consumer concerns or complaints to be brought to the board's attention and staff have been told if they contact board members they will be terminated.
- Policies and procedures for the center have not been up dated within the past three years.
- The board has not reviewed consumer satisfaction surveys.

Taken as a whole, these examples show that the board does not function independently and does not approve financial or administrative matters. In addition, the board does not take an active role in the key personnel or programmatic decisions of the center.

**Finding:** TRAC not in compliance with section 725(b)(2) of the act because the board of directors is not providing responsible programmatic and fiscal oversight of the center.

**Corrective Action:** TRAC must take corrective action to ensure that the board of directors provides responsible fiscal and programmatic oversight of TRAC. The corrective action must include review and revision of the center's and the board's policies and procedures as well as training on board organization, development and fiscal and programmatic oversight responsibilities.

### **TRAC Response**

- Although our Bylaws allow for the consolidation of the Board chair and the Executive Director so long as the Chair is not a voting member (this is derived from TN charter regulations for incorporations) collectively by simple majority the Board of directors have the full authority to govern the center. Is there a CFR in conflict with this practice?
- During the quarterly Board meetings the Executive Director is required to give a report on his performance and progress in facilitating growth and implementation of the five year plan. It is during these meetings that discussions are held and then the board determines to make a motion to approve the Executive Directors report.
- The Executive Director was told several years ago by both the Board of Directors and the last individual that did our audit that salaried employees are not required to maintain time and attendance records as they may be required to work excessive hours at times and a decrease in hours other times but in no way shall receive additional compensation due to the fact they are paid a flat salary.
- While the board minutes may not always reflect that intricate details and full scope of the activities, it is suggested that Board Secretaries in the future be more detailed oriented.

- Due to the different times throughout the summer that we are notified of our part C funding levels for the next annual budget it makes it difficult to schedule a Board Meeting around that two week window (from the time of notification until the time of submittal).
- The Executive Director has canceled the membership in the Walden Club as he nor the Board, were aware of it being inappropriate, as the club does not issue memberships to businesses. It only issues to individuals on behalf of entities. This membership was for the purpose of cultivating donors and partners to contribute and collaborate with TRAC. It has proven to yield successful results.
- TRAC's policies and procedures in all areas of the center are undergoing review and revisions.
- We have consistently provided avenues for grievances for Consumers and staff. Contained in every ILP packet is a grievance procedure signed and dated by both consumer and the staff person. This document is in every file and allows for a hearing before the Board of Directors or designee if requested. Furthermore, all staff grievances are demonstrated and outlined in the policies and procedures section 5.5 which clearly states a detailed process for their grievance. (A copy of the personnel policy and procedures with 5.5 was provided during your on-site review.)
- Policies had been reviewed by the Board of Directors during the last three years after discussion and comments the board opted not to make any changes. They believed a policy or procedure may need to be changed if it was in conflict, obsolete, or outdated.
- During the August meetings results of the Consumer satisfaction survey are discussed and the finding reviewed with the board any corrective action if necessary is suggested.

The current Board members were exclusively recruited and nominated by the Staff. The source utilized was support group attendees. Their names and background information were submitted to the outgoing Board members, and were elected as their replacements. The Executive Director met all but one of them for the first time after they had already been elected.

In the past history of TRAC several Board Members have upheld the decision to distance ourselves when necessary from active involvement with the SILC when they were labeled dysfunctional. Several CIL Directors in the State of TN shared the same position and took similar action. We submitted information our consumers desired to be contained in the State Plan to no avail.

**RSA Determination: RSA maintains Finding 7 based on the facts presented in the report. The review team had the opportunity to meet four members of the Board of Directors during the onsite review. All four had assumed their roles the previous week on Friday prior to our arrival on Monday, none were aware of their legal and fiduciary responsibilities. There were no older members remaining on the Board to provide past history and leadership to the new members. As Board members there is the requirement to provide oversight and direction to the Executive Director including annual performance evaluations and setting of the Executive director's salary. Based on TRAC's response to the draft report, RSA requested additional information regarding the timesheets and Personnel Activity Reports (PARs) for three of the employees. It was determined from the information provided that TRAC does not have clear policies and procedures for**

**completing, reviewing and approving timesheets and PARs for the staff and the Executive Director. The corrective action plan must provide the steps and timelines to ensure completion within six months of the final report's issuance and specify any RSA technical assistance requested. RSA will consider the corrective action to be completed upon its review and approval of the required written policies and procedures changes and our verification that such policies and procedures are being implemented in a manner that complies with federal requirements.**

**For the PARs, since the time staff spend on the award constitute grant supported activities, TRAC must develop a process for monitoring the timesheets to ensure that they meet regulatory requirements which were cited in the draft report. For example, the supervisor must sign off on each timesheet and use supporting documentation (the PAR) to verify the amount of time the employee reported working on a particular award. In the case of the Executive Director it would be a designated member of the Board of Directors who would verify and approve the Executive Director's attendance and PARs.**

**Personnel activity reports or equivalent documentation must meet the following standards:**

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee,**
- (b) They must account for the total activity, for which each employee is compensated,**
- (c) They must be prepared at least monthly and must coincide with one or more pay periods, and**
- (d) They must be signed by the employee.**

**Therefore, TRAC would need to have detailed documentation that breaks down the actual time spent on each award. The timesheet would need to list each award the employee works on and indicate actual hours worked.**

**RSA reserves the right to pursue enforcement action related to these findings as it deems appropriate, including the recovery of funds, pursuant to 34 CFR 74.60 and 34 CFR 74.62 of the Education Department General Administrative Regulations (EDGAR).**